

October 13, 2009

Public Hearing: **Zoning Ordinance Amendment ZA09-0006:** Comprehensive
 Zoning Ordinance Update
Owner(s): City of Frisco

DESCRIPTION:

Consider and act on the Zoning Diagnostic Report by Freese & Nichols and recommendations of the Zoning Advisory Committee on the City's Zoning Ordinance update.

BACKGROUND:

The Zoning Ordinance was last completely revised in 1993. Since then there have been a number of amendments as well as new legislation approved by the State that have created the need for a complete revision of the Ordinance. In response, the City Council, on November 18, 2008, authorized a Professional Services Agreement with Freese & Nichols for the purpose of preparing a new Zoning Ordinance. City Council also approved the creation of a Zoning Advisory Committee (ZAC) consisting of 23 members representing residential, business, non-profit, and other interested parties.

REMARKS:

The first phase of updating the Zoning Ordinance is to diagnose the existing Ordinance and make recommendations for improving existing regulations and practices. To do so, the Consultant has met with staff and various representatives from engineering firms and the Frisco Developers Council (FDC). After an evaluation of the comments received, the Consultant has recommended revisions as outlined in the attached diagnostic report. The Diagnostic Report is intended to provide guidance towards drafting the Zoning Ordinance. The Diagnostic Report does not bind the City Council or the Planning & Zoning Commission in approving the final draft of the Zoning Ordinance update.

City Council, the Planning & Zoning Commission, and the Zoning Advisory Committee held a joint work session to discuss the recommendation on August 27, 2009. Based on discussions at the work session, staff is recommending that the Diagnostic Report address five main topics as outlined below.

House size – Several City Council members expressed concern about going to a smaller minimum house size and the impact on property values that a smaller house would have on existing houses in a subdivision. After further discussion, there was a general consensus to establish a minimum house size that was larger than the 800 square-feet proposed in the Diagnostic, however, no consensus was made on what the minimum should be. Staff will research other cities and consult with the City Attorney's office prior to preparation of the draft ordinance. Staff's concern with the current minimum house size has always been about the perception of exclusionary zoning practices. Staff recommends moving forward with the reduction of the minimum house size.

Residential zoning districts – Some of the City Council and Planning & Zoning Commission members were concerned about reducing the number of residential districts. Changing the designation was "okay" but not reducing the overall number. Staff recommends changing the current designations, but also creating a new zoning district that would be based on performance measures. During the preparation of the draft ordinance, details will be presented on how this new zoning district may be applied to new zoning cases and possibly existing zoning.

Diversity in lot sizes – There was some concern over potential constraints on the builder. Also, density needs to be better defined. There was also a concern for what effects a large discrepancy between individual lot sizes would have and on property values. Staff recommends moving forward with providing a mechanism for diversity in lot sizes and types. During the preparation of the draft ordinance, details will be presented on how this may be applied.

Residential driveways – Several Council members questioned the Report's recommendation about designating driveway locations. They expressed concern that this would create cookie cutter neighborhoods and the constraints this requirement might put on the builders. Staff has discussed this topic with the Frisco Developer's Council (see item # 22 in the next section) and the FDC has offered to research other possible solutions to this and work with staff to incorporate those solutions into the draft ordinance. Staff recommends that this concept be developed further in the draft ordinance with input from the Frisco Developers Council.

Amortization – Council members did not support having an amortization section in the Ordinance if they could not be the body that initiates the process. Staff has discussed this with the City Attorney's office and Legal has indicated that the ordinance can be written to grant City Council the sole authority to initiate the amortization process. Staff recommends providing a mechanism for amortization in the zoning ordinance with City Council initiation.

FRISCO DEVELOPERS COUNCIL REVIEW:

The Frisco Developers Council has reviewed the diagnostic report. Staff met with the FDC on September 23, 2009, to discuss their comments regarding the diagnostic report (see attached letter). The following numbered responses correlate to the numbers on the attached FDC's letter.

1. General Concepts

Clarified that the term "urban" referred to "urbanized" and that suburban-style development would still be appropriate in some areas of the city.

2. Update Style, Numbering and Page Layout

Staff agreed to track recent amendments to the Zoning Ordinance – up to year – in an online database. Staff is currently doing this, but for only six months.

3. Use State Definitions for State Regulated Businesses

References will be made for all state and federal definitions. Staff started this process about 10 years ago in referencing state and federal requirements in definitions so that the City remained current with such legislation.

4. Consider Consolidating Single-Family Districts

Based on discussions at the City Council/P&Z Joint Work session, this proposal is being dropped.

5. Develop alternatives to the Minimum Lot Size Requirement

More discussions will take place as the specifics are worked out.

6. Review and Update Zoning District Purpose Statements

Clarified the intent of this is to simplify purpose statements.

7. Review Setbacks for all Zoning Districts

FDC would like further discussion with City staff regarding side yard setbacks. Staff reiterated our position on minimum 7-foot side yards and requiring front porches or other elements to reduce the front yard setback.

8. Review Lot Size, Width, and Depth Requirements for all Zoning Districts

More discussions will take place as the specifics are worked out.

9. Reduce the Minimum Dwelling Area (House Size) Requirement

Clarified that the minimum house size requirement does not apply to townhomes, multifamily units, or homes in the OTR south of Main Street. Staff discussed with the FDC that the minimum would be larger than 800

square feet based on discussions at the City Council/P&Z joint work session.

10. Require Housing Integration

FDC raised concerns on how integration would work on smaller tracts (50-100 acres) and that the realtor base here is very traditional and may not favor integration of housing types. Staff reiterated discussions at Vision North Texas events stating we need something “better than business as usual.” Staff and the FDC will continue to refine this subject.

11. Adjust Height Restrictions within Non-Residential Zoning Districts

Residential proximity slope for non-residential development adjacent to residential. Slope could be relaxed if adjacent to developed multifamily.

12. Amend the OTC District to Allow for Greater Functionality

No additional comments.

13. Promote “Usable Open Space” in the Front and Side Yards

Clarified that the requirement was for non-residential development.

14. Combine Existing Non-Residential Zoning Districts

Current plan is to eliminate the unused Corporate Office (CO) and Neighborhood Service (NS) zoning districts. FDC would like further discussion on development standards in any consolidated districts.

15. Reduce the Amount of SUPs within the Use Chart

FDC would like additional discussion pending specific recommendations.

16. Add the Tollway Overlay District to the Use Chart

No additional comments.

17. Add Section Regarding Alternative Energy

Clarified that regulations would be for visual impacts, but would remain flexible to accommodate changing technologies in the alternative energy industry.

18. Use Chart and Definitions

Standardize definitions through the North American Industrial Classification System (NAICS).

19. Shared and Maximum Parking Standards

FDC expressed concerns over some retailers mandates for parking that exceeds minimum requirements. Staff and FDC will have further discussion on this subject.

20. Masonry Requirements – Cementitious Fiber Board Siding

Staff discussed the provision for a developer-provided pattern book to use cementitious fiber board siding. FDC had no objections with that provision.

21. Landscape Edge Requirements

No additional comments.

22. Residential Driveway Standards

Staff explained the reasons for clustering of driveway locations. FDC still had concerns about the potential for “mandating” driveway locations and offered to provide staff some alternatives that may achieve staff’s goals. Staff accepted the FDC’s offer for assistance.

23. Cluster Development

No additional comments.

24. Open Storage and Screen Requirements

No additional comments.

25. Alternative Subdivision Design Procedure

FDC would like to see more cutting-edge design techniques (i.e. LEED-ND) incorporated into the Alternative Subdivision Design Procedure. FDC offered to provide examples later in the process.

26. Façade Review Procedures

Staff clarified that the intent of this section would be to provide for a more objective review and incorporate more attention to detail (i.e. windows, doors, proportionality, etc.) in the review process. FDC wanted to maintain a good balance between City standards and franchise architecture. City staff has worked with applicants in the past on projects involving “corporate identities”, and this is currently addressed in the Zoning Ordinance.

27. Sustainable Placemaking and Concepts from the Form Based Codes

FDC had concerns that the Form Based Codes standards might be too restrictive to incorporate into the entire Zoning Ordinance and that standards may not apply in all development situations. Staff clarified that the intent of the Form Based Codes is to provide flexibility and more staff-reviewed waiver provisions. Staff will need to spend more time explaining this process to eliminate the misinformation on this topic.

28. Creek Density Bonus

FDC generally concurred but would like to reserve further comment until specific recommendations are presented.

29. Variance Procedures

No further comments.

30. Non-Conforming Uses and Structures

No further comments.

31. Amortization of Non-Conforming Uses and Structures

Staff clarified that this section is only intended to provide a tool to the City in extreme cases.

32. Vested Rights Application

The section in the Zoning Ordinance addressing vested rights should be clarified to reflect what is referenced in State Statutes. FDC's legal counsel feels this section is unnecessary in the Zoning Ordinance because it's stated in the Texas Local Government Code. Staff's recommendation is to keep this so that the process is specified. Staff will work on with The City Attorney's Office on this section as well as the overall Zoning Ordinance before it is brought to the Planning & Zoning Commission and City Council for action.

33. General Procedures

Staff clarified that current review comments are provided for the applicant at every phase of the development process and this standard of communication would remain.

NEXT STEPS:

Pending approval of the Diagnostic Report by the Planning & Zoning Commission and City Council, the next phase of the process is to refine issues identified in the Diagnostic Report and prepare the draft Ordinance. The consultants will be meeting with staff and the Zoning Advisory Committee throughout this process.

RECOMMENDATION:

Staff recommends approval of the Zoning Ordinance Diagnostic Report subject to the following amendments:

1. **Residential zoning districts** – Change the current designations and create a new zoning district that would be based on performance measures.

2. **Diversity in lot sizes** – Provide a mechanism for diversity in lot sizes and types and provide details on how this may be applied.
3. **Residential driveways** – Continue to work with the FDC to come up with solutions.
4. **Amortization** – Provide a mechanism for amortization in the Zoning Ordinance with City Council initiation.